

Part Three

Naming and Describing as Entitlements

In the previous chapters, I have described an approach to definitional disputes that emphasizes the normative and pragmatic aspects of deciding how to use socially important words. The focus of the analysis to this point has been a rethinking of how to answer definitional questions of the form “What is X?” When there are competing answers, what follows can be described as an argument *about* a definition. In the following chapters, I discuss arguments *from* and *by* definition, that is, disputes in which a definition of X is generally shared and accepted by interlocutors and the debate turns on whether or not a particular event or phenomenon should or should not be understood as an instance of X.

Rhetorical critic Richard Weaver describes the “argument from definition” as all arguments derived “from the nature of the thing.” All such arguments, Weaver suggests, are based on the postulate that “there exist classes which are determinate and therefore predicable. . . . Whatever is a member of the class will accordingly have the class attributes” (1985, 86).¹ The standard Aristotelian form of definition focuses on genus and difference: An X is (a kind of) *class name* that has such-and-such *attributes*. Part of what it means to be “human,” for example, is to be a type of being that is mortal. To make the claim that “Socrates is mortal” is to invoke an argument from definition in which “the class of

mortal beings is invoked as a predicable” (86). The logic of argument from definition is easily recognizable as the classic form of the syllogism:

All humans are mortal.
Socrates is human.
Therefore, Socrates is mortal.

Or:

All X are Z.
Y is an X.
Therefore, Y is Z.

Arguments about definitions are mostly concerned with the first premise: Asking “What is X?” also amounts to asking “What are the predicable attributes of X?” Once answered, members of the class of objects, actions, or events known as X are generally expected to share those predicable attributes. For example, if we agree to define “rape” as “nonconsensual sex,” and it is agreed that in a given instance person A forced person B to have intercourse, then it follows that the given instance is or “counts as” rape. But what happens if we disagree about the middle step in this argument, that is, if we disagree about whether in this particular instance person A forced person B to have intercourse?

In an earlier chapter, I described the “picture theory” of meaning as described in Ludwig Wittgenstein’s early work. To those who believe that language pictures reality, there must be a similarity between “that which pictures and that which is pictured” (Phillips 1977, 21). Straight-forward “observations” ought to be able to be reported in language that accurately and objectively corresponds to the structure of reality. The description “person A forced person B to have intercourse” is or is not “correct.” The picture theory of meaning, it will be recalled, posits that “truth” consists in some form of correspondence between belief and fact: between a person’s subjective opinion of what is and what objectively “really is.” Accordingly, a description of an event as rape is “objectively” true or false.

Although few philosophers still subscribe to such an account of language, there is something compelling about the idea that language ought to be able to provide an “objective” account of the world that accurately portrays reality. Part of the persuasiveness of such an account of language stems from those instances in which there is a high degree of denotative conformity—where there is virtual unanimity about how a particular phenomenon should be described. But we should not confuse intersub-

jective agreement—a social phenomenon—with a metaphysical state of affairs. As argued previously, observations are theory bound. If we share a set of beliefs about the United States' monetary system, the odds are good that we will agree on what is a five-dollar bill when we see one. What makes the description “This is a five-dollar bill” function as true is our intersubjective understanding of the institution of U.S. money (Searle 1969). It is our agreement that “entitles” the piece of paper to “be” a five-dollar bill and not the presence of nonhuman metaphysical qualities. Similarly, we must share a number of beliefs about human behavior in order to agree whether, in a given instance, “person A forced person B to have intercourse” and, thus, whether the given instance “counts as” rape. It is not a question of whether a given description is an objective picture of reality but whether a given description receives the intersubjective assent of relevant members of a discourse community. From a pragmatic perspective, what is often called an objective account is one that obtains a high degree of denotative conformity, while a subjective account is one that obtains a low degree of denotative conformity.

When we name or describe a phenomenon, we “entitle” it as some thing, event, action, or whatever. Whether we agree on a description potentially can have enormous consequences. For example, if a jury agrees that person A forced person B to have intercourse and thus decides that the given instance counts as rape, person A is subject to significant penalties under the law. Of course, we do not always agree on how to describe a given phenomenon, and the degree of denotative conformity obtained in various situations can vary widely and change over time. Controversial descriptions, or “disputed entitlements,” that argue from or by definition are the focus of the following chapters.

The three chapters in part three describe disputed entitlements at three levels of abstraction. Chapter 7 illustrates the theme that descriptions entitle phenomena in a persuasive manner by examining a dispute over how to identify seven particular objects—in this case, photographs. Are they instances of pornography, or are they entitled to be taken as “art”? Chapter 8 moves up the ladder of abstraction to consider how whole classes of objects and events are named and defined in order to illustrate the theme that naming functions as argument by definition. That is to say, how we name a class of objects can define that class with nontrivial attitudinal and behavioral consequences. In this case, I examine the linguistic practice known as “nukespeak” in order to assess critically some of the ways in which naming persuades. Chapter 9 moves up the ladder of abstraction one more notch to discuss how certain language

choices “frame” whole situations. How we define a situation or problem frames, that is, unavoidably limits, our understanding and delineates a limited range of appropriate responses. Based on the view of language advocated throughout this book, it should come as no surprise that I argue that such framing functions persuasively and as a form of social influence. In particular, I look at how the terms “private,” “public,” and “technical” are used to define distinct “spheres” of human activity.

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Description as Persuasive Entitlement: The Mapplethorpe “Obscenity” Trial

In this chapter, a case of disputed entitlement that ended up in a court trial before a jury is discussed. In the so-called Mapplethorpe obscenity trial in Cincinnati, Ohio, the question was whether a group of seven photographs should be categorized legally as obscene or not. The case serves as a representative example of disputed entitlement. There was no question in this case about the definition of the key concepts; the legal definition of “obscenity” was not at issue. Rather, the question was how, in this particular case, the phenomena at issue should be described—“obscene” or “art.” Prior to, and in the process of, examining this case, I want to develop an argument that all acts of description, naming, or “entitling” are normative and prescriptive and that the notion of a “neutral” or “objective” description of anything is untenable and unhelpful.

Entitling Reality

All language use can be described as persuasive. Just as definitions are persuasive in the sense that they encourage people to use word X in a particular way and understand what X is, so, too, do all descriptions prescribe a view of the way some part of reality is. Nouns and verbs represent categories, and “all category systems are moral and political entities” (Bowker and Star 1999, 324). Sentences are predicative assertions that “have ontological claims” and encourage fellow language users

to “see” or understand certain aspects of reality in one way rather than another: “We have no sooner uttered words than we have given impulse to other people to look at the world, or some small part of it, in our way” (Weaver 1970, 224). As explained in chapter 2, efforts to describe are always partial in the sense of being “part” and not the whole and in the sense that any perspective that is selective enacts a sort of bias. As Kenneth Burke puts it, “[T]he mere act of naming an object or situation decrees that it is to be singled out as such-and-such rather than as something-other” (1973, 4). When we label or describe a shared stimuli, we make sense of it by locating it in one shared category to the exclusion of many others (cf. Bowker and Star 1999, 5).

Burke describes the persuasive predicative function of language as a process of “entitlement” (1966, 359–79). He encourages us to think of language use as “the ‘entitling’ of complex nonverbal situations” (361). There are several ideas at work in Burke’s metaphor. Obviously, just as a book’s title identifies, denotes, or designates which text is being referred to, so certain words function to identify, denote, or designate “objects” in the world. But it is the selective and abstractive function of titles that Burke wants to emphasize: Just as a title of a novel “sums up the vast complexity of elements that compose the novel, giving it its character, essence, or general drift,” so descriptive statements reduce and “abbreviate” in order to make sense of infinitely complex stimuli (361).

The most important aspect of Burke’s notion of entitlement is his reversal of the traditional piety that “words are the signs of things” to “things are the signs of words.” To “entitle” something—“X”—is not only to give X a title in the simple sense of assigning X a name or label, but it is also to give X a particular status. For example, to describe X as “an object” is to assign X an ontological status somewhat different than labeling X “an event” or “a vague feeling.” More specific entitlements provide a more specific status. Calling an object a “dime” is quite different than calling it “a metal object,” although both statements could obtain an equally high level of denotative conformity (cf. Brown 1958, 14). Burke points out that we have various categories for words we tend to use to describe different “realms” or orders: words to describe the natural order, the purely verbal order, the sociopolitical order, and the supernatural order (1966, 374). Using words from these different orders entitle reality in different ways that give our experiences different “status” in our belief systems. Attribute a sound to “a ghost” among people who do not believe in ghosts, and they will interpret your statement quite

differently than if you were among people who do believe in ghosts. The “status” of “ghosts”—whether they exist and what they are like—can vary among different discourse communities.

Whenever we label a shared stimulus, we make sense of it by locating it in a shared belief system. Without a means to label or name a phenomenon, that phenomenon has no status in our belief system. Although our current beliefs about “gravity” and “carbon” compel us to say that they have existed throughout the history of our planet, we could hold no shared beliefs about gravity or carbon without the linguistic means of identifying or “entitling” them.

The creation of a new word provides a somewhat new way of summing up or entitling a portion of human experience. One rhetorical effect of entitling a new “thing” is that it creates the impression that the thing has been “out there” all along, waiting to be discovered and described. Nouns, in particular, suggest things-that-already-exist: “And that no doubt accounts for the feeling that when one is using nouns, one is manipulating the symbols of a self-subsistent reality” (Weaver 1985, 128). Nouns give one the impression of something stable, even permanent and immutable, or at least beyond the immediate limits of subjectivity (Perelman and Olbrechts-Tyteca 1969, 182, 294).

The idea that language entitles reality also can be described from a psychological perspective. As argued in chapter 2, we know that language affects human perception and cognition. All meaningful human experience is formed experience, organized through a continual process of abstraction, bordering, and categorization. Differences in the way a language encodes a domain of experience influences how individuals conceive reality in that domain. The introduction of a new signifier simultaneously introduces a new signified and thus expands the spectrum of conceptual possibilities for a given linguistic community. Viewing the process in reverse, sans signifier, there is no corresponding signified readily available in the language/belief system. It is precisely this point that Burke is making when he describes nonverbal “things” as “signs” of words. Prior to the coining of a term for a distinct category of phenomena, that phenomena is without form or “meaning.” The point here is psycholinguistic, not metaphysical: without the linguistic categories of “art” and “obscenity,” for example, the Mapplethorpe controversy would not exist; it would be meaning-less.

The categorizing function of language is a form of persuasion; different terminologies prompt us to perceive the world in different ways (Gregg 1984, 50–51). The position advanced here does not entail the

position, usually attributed to Benjamin Lee Whorf, that language pre-determines thought and that meaning is confined to language (1956).¹ Nonetheless, naming has the effect in practice of stabilizing the meaning of that portion of human experience being entitled. Richard Gregg calls this process *linguistic fixing*: “Language helps fix or stabilize tendencies and processes already present in thought and experience” (1984, 87). In fact, empirical evidence supports the relationship between the specificity of a given vocabulary and the degree of analytical sophistication and conceptual retrievability (Brown 1956; Brown and Lenneberg 1954; Rosch 1988; Lakoff 1987, 330–34). A relationship exists between vocabulary and understanding: the more complex the vocabulary or system of entitlements, the more sophisticated the observed learning.² Nouns, in particular, “function to introduce and arrange new people or objects in the discourse” (Corrigan 1989, 8).

To summarize the argument so far, naming and describing are acts of entitlement. Through such linguistic practices, we give our experiences meaning and make sense of reality. By entitling a given phenomenon, we locate that phenomenon in a set of beliefs about the world that includes beliefs about existence-status (what things are real or not) and essence-status (what qualities we may reliably predicate about the phenomenon). Because the range of possible entitlements is theoretically infinite, any given act of entitling should be seen as a persuasive act that encourages language users to understand that-which-is-entitled in particular ways rather than others.

The persuasive character of entitlement is particularly clear in the case of the Mapplethorpe obscenity trial. An exhibition titled “Robert Mapplethorpe: The Perfect Moment” opened at Cincinnati’s Contemporary Arts Center (CAC) on April 7, 1990. The CAC and its director, Dennis Barrie, were charged by Hamilton County prosecutor Frank H. Prouty Jr. on the exhibit’s opening day with pandering obscenity and using minors in pornography. At issue were seven photographs out of 175 in the exhibit. The photographs were of nude subjects, and some depicted sadomasochistic and homoerotic activity. Two of the photographs were of nude or nearly-nude children: one of a nude boy on a chair, another of a toddler with her dress raised and her genitals exposed. The pictures of adult subjects included a photograph of a finger inserted into a man’s penis. In another, Mapplethorpe, who had died the previous year of AIDS, had photographed himself with a bullwhip in his rectum; another photograph depicted a man urinating into another man’s mouth; and another photograph portrayed a male fist inserted into a

rectum. If convicted of the charges, Barrie faced as much as a \$2,000 fine and a one-year jail term, while the CAC faced a \$10,000 fine. The case was remarkable, in part, because it was the first-ever instance of an art center or museum being charged with obscenity.

The legal definition of obscenity can vary from state to state but can go no further than the definition set forth by the Supreme Court in the 1973 case of *Miller v. California*. The majority opinion of the Court was written by then Chief Justice Warren Burger. He declared: “[W]e now confine the permissible scope of such regulation [of obscene materials] to works which depict or describe sexual conduct. That conduct must be specifically defined by the applicable state law, as written or authoritatively construed. A state offense must also be limited to works which, taken as a whole, appeal to the prurient interest in sex, which portray sexual conduct in a patently offensive way, and which, taken as a whole, do not have serious literary, artistic, political, or scientific value” (1973a, 24). The last sentence quoted here is the most important, as it produces a three-part definition for obscenity that has come to be known as the “Miller test”: the work must appeal to prurient interests, depict sexual conduct in a “patently offensive” way, and lack serious value—in this case, as art.

In the Mapplethorpe case, the focal point of the trial was the third part of the Miller test. The key issue was, Were the photographs entitled to be called “art”? If so, then they could not be called obscene under the law. If not, then Barrie and the CAC could be prosecuted and punished. Although, logically speaking, one could imagine the concept of “obscene art,” from a legal standpoint “obscenity” and “art” are mutually exclusive categories (Peckham 1969). This opposition is sometimes reflected in popular culture as well, as the cover of the July 2, 1990, *Newsweek* suggests when it posed the question “Art or Obscenity?” about various controversies, including the Mapplethorpe photographs.

The competing sides in the trial attempted to persuade the jury to accept their particular entitlements of the photographs as either art or obscenity. Of course, there is an endless variety of other ways to entitle the objects involved: they could be described by size, shape, color, weight, texture; by emotional response, economic value, political dimensions, religious value; or from any one of a number of other perspectives. To restate Burke’s point: “[T]he mere act of naming an object or situation decrees that it is to be singled out as such-and-such rather than as something-other.” Thus, to frame the debate as “art” versus “obscenity” is doubly persuasive in that, first, other aspects of the situation are set aside,

and then, second, we are encouraged to understand the objects as either art or obscenity, but not both.

What Counts as Art?

Deciding whether a given work is art depends on reaching an agreement about what counts as art. How to define “art” or “work of art” has been a perennial question for philosophers and art critics—so intractable that W. B. Gallie described art as an “essential contested concept” that is impossible to define to everyone’s satisfaction (1964, cf. Kekes 1977). Not surprisingly, the theoretical beliefs held by different philosophers in general about language and reality informed their arguments about the problem of defining art. For my purposes, the efforts to define art by philosophers can be described as falling into three categories: essentialist, analytic, and pragmatist.

An essentialist approach is an example of a search for a real definition, fueled by a faith in metaphysical absolutism (critiqued in chapter 3). An essentialist assumes that there is an “essence” or “innate quality” of Art that all particular instances must have in common. Clive Bell, for example, argued that everyone “believes that there is a real distinction between works of art and all other objects” (1914, v). In answer to the question “What is Art?,” he declared that “either all works of visual art have some common quality, or when we speak of ‘works of art’ we gibber” (7). For Bell, that common quality is “Significant Form,” and he is identified, historically, as supporting a formalist definition of art. Leo Tolstoy’s *What Is Art?* defines art as a specific kind of “infectious” communication of particular emotions (1930, 123). He, along with others such as R. G. Collingwood (1938), is categorized as supporting an emotionalist theory or definition of art. The intuitionist theory claims that it is through art that artists bring intuitive knowledge into aesthetic expression (Croce 1922, 12–21). An organicist definition says that “art is really a class of organic wholes consisting of distinguishable, albeit inseparable, elements in their causally efficacious relations which are presented in some sensuous medium” (Weitz 1956, 29; 1964). These definitions guide their proponents’ judgments about what counts as art. Tolstoy contended that ballet, for example, is not art but a “lewd performance” in which “half-naked women make voluptuous movements, twisting themselves into various sensual wreathings” (1930, 179). Royal Cortissoz dismissed the work of Cézanne and bitterly attacked the “Post-Impressionist” paintings of Gauguin, Matisse, and Picasso from an im-

PLICIT organicist definition he called “common sense” (1913a, 125–38; 1913b), while Clive Bell defended the same paintings as great works of art from a formalist perspective (1914, 215–38).

An “analytic” approach may or may not acknowledge its dependence on metaphysical essentialism but in any case searches for the necessary and sufficient conditions to state that “this is art” (see, e.g., Beardsley 1961). The two most prominent definitions can be characterized as the “functional” and “institutional” theories of art. The most common efforts to define art in terms of the function it performs focus on the aesthetic experience works of art provide (Eldridge 1985; Rowe 1991; Tollhurst 1984). Institutional definitions focus on the recognizable relationships among the artist, a work of art, a public audience, and an institutional “artworld” (Dickie 1974). Both approaches have their critics. What counts as aesthetically pleasing, valuable, or significant is so diverse that such definitions either must remain so abstract as to be useless (Morgan 1961) or else become mired in argument about the aesthetic value of particular works of art. Institutional aspects are declared accidental features of certain works of art that do not identify the necessary or essential requirements of all works of art (Stecker 1986). To the extent that some efforts to articulate a functional or institutional theory of art try to generate definitions that are timeless and eternal, they tend to enact the sort of linguistic absolutism that I argued in chapter 4 fares no better than metaphysical absolutism. Some theorists attempt to provide historical versions of these theories to avoid just such a critique. Noël Carroll (1988) and Jerrold Levinson (1979; 1989) argue that attempts to identify new objects as works of art necessarily involves linking such objects with previously produced artifacts culturally or institutionally acknowledged to be works of art. Robert Stecker suggests that a functional definition of art can be preserved if one admits that aesthetic and other artistic functions change over time (1990). I believe that it is safe to generalize that among those theorists interested in generating definitions of “art,” the most productive current approaches focus on artistic functions and institutions from a historical perspective.

A third approach to the issue of defining “art” can be called pragmatist. Such efforts acknowledge that any effort to define art turns out to be a competing theory of art, and that individual observation statements of the type “This is art” or “This is not art” are informed by larger sets of beliefs about—or theories of—art. Some pragmatic theorists maintain that we learn from our definitional efforts about the history and development of art: “Only by taking seriously for a time such slogans

as ‘Art is the expression of emotion,’ ‘Art is significant form,’ ‘Art is illusion,’ ‘Art is the decrease in psychical distance without its disappearance,’ ‘Art is empathy’ and other such block-busting blanket definitions, can we learn anything at all about the kaleidoscopic nature of the most general of aesthetic concepts, i.e. ‘art,’ and only by examining the arguments which are proffered in support of these arrogant, essentialist slogans, can we learn anything of the quagmires of aesthetics” (Peetz 1987, 143).

Other pragmatists set aside the question “What is art?” altogether as ill-conceived for many of the reasons that have been described throughout this book as reasons to reformulate questions of the form “What is X?” A particularly important influence on these thinkers is the “later” work of Ludwig Wittgenstein (esp. 1958a, 1958b). Wittgenstein, as mentioned in chapter 4, abandoned his “picture theory” and argued that meaning is found in the *use* of terms as parts of “language-games” and that the use of a word can vary widely according to context and convention (1958b). Accordingly, pragmatists see “art” as a label that different discourse communities use differently. Morris Weitz’s influential essay “The Role of Theory in Aesthetics” argues against trying to generate “a real definition of the nature of art” that correctly identifies the “necessary and sufficient properties” of works of art (1956, 27). Claiming that there are “no necessary and sufficient properties,” Weitz advocates a turn to studying the way the category “art” is used in ordinary language use. He suggests that learning what to call “art” is a linguistic skill that parallels the acquisition of other categories that include varied items, such as “games”: “The problem of the nature of art is like that of the nature of games, at least in these respects: If we actually look and see what it is that we call ‘art,’ we will find no common properties—only strands of similarities. Knowing what art is is not apprehending some manifest or latent essence but being able to recognize, describe, and explain those things we call ‘art’ in virtue of these similarities” (31). Rather than focus on the metaphysical qualities of art objects or the truth conditions of statements about art, pragmatists are more likely to search for “acceptance conditions” under which individual objects are entitled as art (Tilghman 1984, 181). Art is an *aspect* of our experience that we may or may not be induced to “see” in a given instance, and “the very idea of a theory or definition” that applies to all works of art “is a confused one” (187).

In another of the early efforts to suggest that producing a universalizable definition of art may be unnecessary as well as impossible, Paul Ziff declares that “no one definition can mirror” the “manifold and

varying usage” of the phrase “work of art” (1953, 77). He points out that deciding whether the phrase “work of art” is being used in a reasonable manner “depends on the particular context in which the question is raised” and cannot be decided *in vacuo* (1953, 71; cf. Mothersill 1961, 197–98). Ziff continues: “To ask ‘What are the consequences and implications of something’s being considered a work of art?’ is to ask an equivocal question to which there can be no univocal answer. We must first know in what context we are to suppose the phrase ‘work of art’ is being used” (1953, 72). Because new works of art are always being created, society is always changing, and the role of art in society is always changing as well, Ziff concludes that in the future it “will be necessary to revise our definition of a work of art” (78).

Ziff points out that such disputes are not “merely verbal,” because the decision of whether to entitle a given work as art can have important consequences. Referring to controversies over various post-impressionist paintings in the first decades of the twentieth century, Ziff notes that “traditional critics explicitly and with great vehemence maintained that the post-impressionist works ought not to be placed in museums; that the public funds ought not to be spent on them; that the public would be ill-advised to spend its time looking at them or reading books about them; and so forth” (1953, 73). When the Society of Independent Artists decided that Marcel Duchamp’s *Fountain*—a porcelain urinal hung at a 90-degree angle and signed with the pseudonym “R. Mutt”—was not art, they excluded it from the society’s first exhibition in 1917. The controversy in Cincinnati over the Mapplethorpe photographs is similar to these controversies because there could have been consequences to the determination that the objects in question did not count as art. But they are different in that post-impressionism called into question the dominant definitions of art of the time in a way that Mapplethorpe’s photographs did not.

Post-impressionist and cubist paintings by artists such as Gauguin, Matisse, van Gogh, and Picasso were attacked viciously by various art critics of the early twentieth century. Kenyon Cox in *Harper’s Weekly* described the work of these “artistic anarchists” as “sickening,” “revolting,” and “defiling” (1913). Of work such as Picasso’s he claimed, “[T]he real meaning of this Cubist movement is nothing else than the total destruction of the art of painting.” He dismisses van Gogh as “a painter too unskilled to give quality to an evenly laid coat of pigment” and says of Matisse that “it is not madness that stares at you from his canvases, but leering effrontery.” Cox is convinced that such “art” is only a pass-

ing fad: “I have no fear that this kind of art will prevail, or even that it can long endure.” In an article originally published in the April 1913 issue of *Century Magazine* (1913b), republished in the same year in his book *Art and Common Sense* (1913a), Royal Cortissoz dismisses the art of the post-impressionist “movement” as an illusion and a farce. Of Cézanne, Cortissoz claims that many of his pictures “should have been discarded as crude attempts” (1913a, 130). Concerning van Gogh, he suggests the painter was too self-absorbed and, artistically, “the result was disastrous” (131). Van Gogh’s later work is blasted as “immature, even childish,” created by “incompetence suffused with egotism” (132). Cortissoz concludes his critique by quoting approvingly a statement by artist John Sargent, who claims to be “absolutely skeptical as to their [the post-impressionists’ works] having any claim whatever to being works of art” (138).

Significantly new approaches to art often create a definitional rupture in which facts of essence (what art “really is”) are in conflict with facts of usage (what some people call art). Most critics and theorists respond by arguing over the facts of art’s essence and defend specific claims that “this is art” using arguments from definition. For example, Clive Bell’s defense of post-impressionists could be reconstructed as:

- (1) The visual enactment of Significant Form is art.
 Post-impressionists’ paintings enact Significant Form.
 Therefore, post-impressionists’ paintings are art.

Cortissoz’s and Cox’s critiques depend on the definition that art is aesthetically valuable representation. Based on such a definition, their argument for excluding nonrepresentational work that they do not find aesthetically valuable could be reconstructed as follows:

- (2) That which is not aesthetically valuable representation is not art.
 Post-impressionists’ works are not aesthetically valuable representations.
 Therefore, post-impressionists’ works are not art.

As art history, the controversy over post-impressionism is significant for two reasons. First, the questioning of the “essential” quality of art-as-representation begun with impressionism was pushed even further. Subsequent efforts to produce a definition of art would be forced to find qualities that representational and nonrepresentational, “realistic” and completely “unrealistic” works of art had in common. The possible range

of phenomena that could count as art was broadened significantly. Since the early decades of the twentieth century, various movements in art have stretched the category so far that one theorist claims art has gone through a process of “de-definition” (Rosenberg 1972). Second, because vilified artists such as Cézanne, van Gogh, Matisse, and Picasso eventually were vindicated and widely considered great artists, judgments about what works are aesthetically valuable are recognized to be malleable. Belief in the self-evident value of works of art was called into question; instead, critics recognized that viewers of new and provocative art “must be persuaded to respond to them” (Rosenberg 1972, 38). If we do not recognize something proffered *as* art, history tells us that we may have to be taught or coached to see it as art. Our “puzzlement in the face of a new kind of art” is marked by not knowing how to describe or to appreciate it, which amounts to saying we do not know “how to look at the new painting, read the new poetry, listen to the new music and so on” (Tilghman 1984, 79). Although we may recognize other aspects of the object, we may feel we suffer from a specific “aspect-blindness” if we do not perceive its artistic aspects (122–51).

The pivotal part of the arguments from definition reconstructed above from Cortisoz, Cox, and Bell is the middle step in which a specific claim is advanced about specific artifacts. The claims that “Post-impressionists’ paintings enact Significant Form” and “Post-impressionists’ works are not aesthetically valuable representations” are contentious descriptions. From the standpoint of an advocate of a broad definition of art, one’s willingness to agree that post-impressionists’ works contain significant form or that post-impressionists’ works are aesthetically valuable depends on whether one has been adequately taught to see the works as art. Such “teaching”—which can be described also as the process of “curing” a specific aspect-blindness—is persuasive. In particular, our willingness to assent to such descriptions depends on the acquisition and acceptance of a specific set of similarity/difference relationships.

In chapter 2, I noted that a key to using linguistic categories successfully is learning the salient set of SDRs that other language users have learned. Just as teaching children what objects they ought to include in a given category depends on persuading them to attend to some features as opposed to others, teaching people what counts as art depends on whether those people will learn and accept certain SDRs. Benjamin R. Tilghman describes the pattern of assimilating new movements in art as one of learning to see the selected similarities and differences between new and old works of art:

This pattern is composed of four elements. (1) There is the culture of the period, the background of artistic life, traditions, and practices, the artworld, against which works of art are understood, described, and evaluated. (2) Something is offered as a work of art that apparently cannot be accommodated by the tradition and that cannot be described and evaluated in terms of familiar categories and standards, with the result that the critics as well as the general public are puzzled, if not outraged in addition. (3) The new work is defended by the demonstration of a connection, however unsuspected, with some aspect of the familiar tradition. The connection is established by showing the *likeness that is to be seen between the new and the already familiar*. The demonstration thus provides a way to understand and assess the new work. (4) The result of all this is that the relevant aspect of the tradition is given an importance it did not have previously and the tradition is thereby modified and enlarged. (1984, 77–78 emphasis added)

Critics of new art, such as the critics of post-impressionism, tend to emphasize the differences between new and old exemplars of artistic movements. Proponents may grant that there are important differences but also demonstrate similarities that entitle the new works to be called “art.” Art historian and critic Roger Fry, who organized the first exhibition of post-impressionism in Great Britain in 1910, defended the artists against attacks by noting that the differences between the post-impressionists and currently popular artists were less important than the similarities between the post-impressionists and previous recognized artists who reacted against what they perceived as the excesses of realism (Tilghman 1984, 72–77). Clive Bell, as another example, argued that Significant Form is what all great art has in common, and he proceeded to try to show that post-impressionists’ works manifest such form. Contending that simplification “is essential to all art,” Bell claimed that “the contemporary movement has pushed simplification a great deal further” than the impressionists (1914, 220–22). If we are persuaded that controversial works are entitled to be called art, then we have been persuaded to understand those works in a new way. As Ziff noted over forty years ago with regard to the eventual acceptance of post-impressionist works as art: “In accepting the modern critics’ decision, we are, in effect, accepting something of their view of what the present functions, purposes, and aims of a work of art are or ought to be in our society” (1953, 77).

Entitling Mapplethorpe's Photographs

Because the central issue in the *Cincinnati* obscenity trial was the artistic value of the photographs in question, each side had to present, implicitly or explicitly, an argument from definition that concluded either that “therefore, these photographs are art” or “therefore, these photographs are not art.” The defense attorneys devoted considerable energy to advancing the conclusion that the photographs were entitled to count as art. In particular, the defense advanced arguments that implicate both an institutional and functional definition of art.

Perhaps the most persuasive argument advanced by the defense attorneys was that the disputed photographs were considered art by a variety of artists, critics, and historians—in short, the institutional art world. Art experts testifying for the defense included John Walsh, director of the Getty Art Museum in Los Angeles; Jacquelynn Baas, director of the University Art Museum at the University of California at Berkeley; Robert Sobieszek, chief curator at the International Museum of Photography at George Eastman House in Rochester, New York; and Janet Kardon, who had organized an exhibition of Mapplethorpe's photographs previously at Philadelphia's Institute of Contemporary Art. Two local art critics, Jerry Stein of the *Cincinnati Post* and Owen Findsen of the *Cincinnati Enquirer*, also testified for the defense. The prosecution did not provide one single witness with a connection to the art world to challenge the defense. Instead, prosecutor Prouty tried to make fun of the art experts: “Are they saying they're better than us?” (Siebert and Moores 1990). Interviews with the jurors after the trial indicate that the prosecution's strategy failed. The prosecution did nothing to challenge the defense attorney's efforts to draw the jury's attention to a key similarity between the controversial photographs and artwork like the *Mona Lisa*—they had been accepted as art by acknowledged art authorities and art institutions. Rightly or wrongly, in contemporary society art museums are perceived to be the “principle arbiter of what shall be considered art” (Rosenberg 1972, 235). As one juror put it, “[W]e had to decide whether the photographs were art or not. The prosecution didn't have witnesses to the contrary” (Cembalest 1990, 137). The defense's argument from definition, and in particular the pivotal middle step, went unscathed:

- (3) All that is accepted by art institutions as art is art.
The Mapplethorpe photographs are accepted by art institutions as art.
Therefore, the Mapplethorpe photographs are art.

The defense also implicitly defended an argument from definition informed by a functional definition of art. Getty Art Museum director Walsh argued that an important function of contemporary art is to challenge the viewer; thus, good art is often controversial art (Cembalest 1990, 139). As a result, the defense led the jury to question the typical assumption that all art must be aesthetically pleasing. Although CAC director Barrie defended certain aspects of Mapplethorpe's photographic technique, other witnesses, such as art critic Findsen, admitted that the photographs were "repulsive" but claimed they were still art. Accordingly, another argument from definition was advanced successfully by the defense:

- (4) Good art includes controversial, nonaesthetically pleasing works.
 The Mapplethorpe photographs are controversial and nonaesthetically pleasing.
 Therefore, good art includes the Mapplethorpe photographs.

By itself, this argument would have been unpersuasive and is formally invalid, because the most worthless obscenity could also be described as controversial and nonaesthetically pleasing. By emphasizing that controversy and lack of a common aesthetic appeal were qualities that the Mapplethorpe photographs had in common with other accepted works of art, however, the defense articulated an important similarity relation that enhanced the plausibility of the jury expanding their category of art to include the photographs. Although the prosecution pointed to certain differences, such as by asking, "Are these van Goghs, these pictures?," the jury was given no reason to weight differences more heavily than similarities. The defense strategy was more persuasive. One juror noted after the trial, "We learned that art doesn't have to be pretty," while another described the photographs as "gross and lewd" but agreed that they were art (Cembalest 1990, 136–37).

The prosecution offered only one "expert" witness. Judith Reisman was described as a mass media expert who had worked as a consultant for the *Captain Kangaroo* show, the Meese commission on pornography, and the conservative American Family Association (Moore 1990). Reisman's testimony was the only effort the prosecution made to refute directly a definitional argument made by the defense. Specifically, another defining characteristic of art offered by the defense was that art is "emotionally expressive." The implicit argument from definition was:

- (5) All emotionally expressive visual works are art.
 The Mapplethorpe photographs are emotionally expressive visual works.
 Therefore, the Mapplethorpe photographs are art.

Reisman challenged this definition of art provided by the defense, claiming that the works were not “expressive of human feeling.” Unlike the previously described arguments from definition, there was direct clash on the crucial middle step:

- (6) All visual works that are not emotionally expressive are not art.
 The Mapplethorpe photographs are not emotionally expressive visual works.
 Therefore, the Mapplethorpe photographs are not art.

Had Reisman been a more credible witness or been aided by witnesses considered part of the institution of art, her counterdescription might have had a chance to be persuasive, but such was not the case. Jurors said after the trial that Reisman’s testimony “did not make a big impression” compared to the weight of testimony provided by the defense (Cembalest 1990, 140). Another juror complained that “the prosecution did not prove its case” (Siebert and Moores 1990). The jury foreperson volunteered that, “I think they could have brought in a sociologist or psychologist . . . somebody who could have said this is not art because . . .” (Siebert and Moores 1990).

Prosecutor Prouty told the jurors, “[Y]ou tell what is and is not art” and insisted repeatedly that the photographs “speak for themselves” (Cembalest 1990, 140). Prouty was following the typical strategy in obscenity cases that relies on the shock value of the material to persuade juries of their lack of value. The Supreme Court ruled in *Paris Adult Theatre I v. Slaton* (413 U.S. [1973] 49) that the prosecution is under no obligation to present expert testimony in obscenity trials. Chief Justice Burger ruled that potentially obscene films “are the best evidence of what they represent” and he quoted, approvingly, a lower court opinion that “hard core pornography . . . can and does speak for itself” (1973b, 56).

Prouty’s strategy failed on two counts. First, he gave the jury no definitions or criteria with which to decide whether the photographs were or were not art, while the defense offered both institutional and functional criteria with which to categorize the photographs as art. Sec-

ond, by insisting that the photographs “speak for themselves” and by somewhat snidely dismissing the experts, Prouty portrayed himself as blind to the artistic aspects of the photographs. By contrast, the jury perceived themselves, in effect, as being educated by the experts to overcome their “aspect-blindness” such that they could see, or at least acknowledge, the artistic merits of the photographs. A number of jurors described themselves as “learning” from the art experts. One credited the defense witnesses with helping her “to gain a new perspective on unfamiliar and disturbing images” (Cembalest 1990, 140). Although the jury decided that five of the photographs *did* meet the first two parts of the Miller test (appeal to prurient interests, depiction of sexual conduct in a “patently offensive” way), they decided that the photographs had serious artistic value and returned a “not guilty” verdict after deliberating for only two hours and ten minutes.

The prosecution’s ineptitude should not imply that this was an open and shut case. Certainly each of the defense team’s implicit or explicit definitions of art could have been challenged. Institutional and functional definitions each have their critics, so the first step in arguments (3) and (4) above could have been contested. The prosecution could have pointed out that the different definitions offered by the defense were inconsistent. Or the prosecution could have pursued a line of argument that suggested the net effect of the defense’s definitions was to *un-define* “art,” since once the aesthetic dimension is set aside and the functional aspect of being “controversial” is privileged, limiting what counts as art becomes almost impossible (Rosenberg 1972, 28–38; Adler 1990). Furthermore, the prosecution could have challenged the key middle step in which a description is offered and through which an important attribute is assigned to the object in question. Such a challenge occurred in arguments (5) and (6), but also could have occurred by challenging the middle step in arguments (3) and (4). Had these crucially important descriptions been challenged by credible witnesses, then the jury would have been in a position to decide for themselves “what is or is not art.” There are art critics such as Robert Hughes who have challenged the “serious artistic value” of Mapplethorpe’s work (“Body Politics” 1990).

Contrary to Chief Justice Burger’s claim, phenomena do *not* “speak for themselves.” It is *people* who make sense of their experience of the world. Through descriptions, people “entitle” tiny slices of reality from various points of view. Because such entitlements are inevitably partial and draw our attention to this aspect rather than that, they are never “neutral” or absolutely “objective”; rather, they are better understood

as persuasive efforts that encourage intersubjective agreement about how to see the world. For a description to be accepted, people must be willing to “see” the similarity between the current phenomenon and a prototypical exemplar and be persuaded the similarities are more salient than the differences. In the case of the Mapplethorpe photographs, the question was whether to entitle the works as art or obscenity. The decision was not a “factual” determination in the sense that describing the photographs’ size would be, but an arguable decision. As Weitz points out, “No ‘is X a novel, painting, opera, work of art, etc.?’ question allows of a definitive answer in the sense of a factual yes or no report.” Rather, the question is whether to extend a preexisting category, such as artwork, “to cover this case” (1956, 32). To decide the matter, persuasive appeals are made to the SDRs that language users consider most salient to the situation. As Rosenberg notes, the classification of would-be art items “cannot avoid being interpreted in a partisan way” (1972, 235). If Burke’s and Weaver’s arguments are taken seriously, then what has been said about the Mapplethorpe photographs can be said about all phenomena: No neutral or purely objective descriptions are possible; all entitlements are persuasive.